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REMARKS

Thus, Claims 1, 6-9, 13, 15, 20 and 21 were pending. Applicant appreciates the Examiner's statement that Claims 1 and 6-9 are in condition for allowance. Applicant notes that Claims 22 and 23 are considered to be withdrawn as being drawn to a non-elected invention. Applicant respectfully submits that it is appropriate to include these Claims in the present case, but in view of the Examiner's arguments, reserve the right to pursue these Claims in subsequent application(s).

Applicant appreciates the Examiner's withdrawal of some previous rejections. Although various rejections have been withdrawn, in the present Office Action, the Examiner has set forth one objection two grounds of rejection. The Examiner's objections and rejections are addressed in the order listed below:

- 1) Claims 13 and 20 are objected to in the recitation of "cysteine protease 1" as being inconsistently used;
- 2) Claims 13, 15, 20 and 21 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite; and
- 3) Claims 15 and 21 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly not meeting the written description requirement,

1) The Claims Are Consistent

The Examiner has objected to Claims 13 and 20 as allegedly being inconsistent in the recitation of "cysteine protease 1." Applicant thanks the Examiner for his suggestion. Indeed, in order to more clearly define the claimed elements, Applicant has amended the Claims as suggested by the Examiner to recite "cysteine protease-1." Applicant respectfully submits that this is non-limiting cosmetic change and requests that this objection be withdrawn.

2) The Claims are Definite

The Examiner has rejected Claims 13, 15, 20, and 21, under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In particular, the Examiner indicates

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that the Claims are "confusing in that it is unclear as to whether the mutation or deletion in the gene encoding B. subtilis CP1 results in the inactivation of CP1, or if CP1 is inactivated by some other mechanism." (Office Action, page 3). Applicant thanks the Examiner for his suggestion. Indeed, in order to more clearly define the claimed elements, Applicant has amended the Claims as suggested by the Examiner. Applicant respectfully submits this is non-limiting cosmetic change and requests that that this rejection be withdrawn and Claims 13 and 20 be allowed. Applicant notes that Claims 15 and 21 have been cancelled without prejudice.

**3) The Present Specification and Claims Meet the Written
Description Requirement**

The Examiner has maintained his rejection of Claims 15 and 21 under 35 U.S.C. §112, first paragraph, as allegedly not meeting the written description requirement. In particular, the Examiner argues that the function of the mutant genes has not allegedly been adequately described in the Specification. Although Applicant must respectfully disagree, in order to further his business interests and the prosecution of the present application, yet without acquiescing to the Examiner's arguments, Applicant has cancelled Claims 15 and 21. Applicant reserves the right to pursue these and/or broader Claims in one or more subsequent applications. As these Claims have been cancelled without prejudice, Applicant respectfully requests that this rejection be withdrawn and the remaining Claims be passed to allowance.


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CONCLUSION

All grounds of rejection and objection of the Final Office Action of May 16, 2003, having been addressed, reconsideration of the application is respectfully requested. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned.

Respectfully submitted,

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APPENDIX I

MARKED-UP VERSION OF SPECIFICATION'S REPLACEMENT PARAGRAPHS AND
REWRITTEN, ADDED, AND/OR CANCELLED CLAIMS

The following is a marked-up version of the Specification's replacement paragraphs pursuant to 37 C.F.R. §1.121(b), as well as a marked-up version of the claims pursuant to 37 C.F.R. §1.121 (c)(1)(ii) with instructions and markings showing changes made herein to the previous version of record of the specification and claims. Underlining denotes added text while bracketing and quotes denote deleted text.

IN THE CLAIMS:

Please cancel Claims 15 and 21.

Please amend the Claims as follows:

13. (Six Times Amended) A method for the production of a heterologous protein in a transformed *Bacillus subtilis* host cell comprising the steps of:
- (a) obtaining a *Bacillus subtilis* host cell comprising a nucleic acid encoding said heterologous protein wherein said host cell contains a mutation or deletion in the gene encoding *B. subtilis* cysteine protease₁, wherein said gene encoding cysteine protease₁ encodes the amino acid sequence set forth in SEQ ID NO:2, and said mutation or deletion results in the inactivation of the cysteine protease-1 proteolytic activity; [*B. subtilis* cysteine protease-1 is inactive;] and
 - (b) growing said *Bacillus subtilis* host cell under conditions suitable for the expression of said heterologous protein.

20. (Thrice Amended) The method of Claim 13, wherein said gene encoding cysteine protease₁ comprises the nucleic acid sequence set forth in SEQ ID NO:1.